IN THE HIGH COURT OF BOMBAY AT GOA
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PIL WRIT PETITION NO. 212 OF 2000

Goa Environment Federation,
with office at E-74, Campal,
Panaji, Goa. ... Petitioner.

Versus

1. State of Goa, through
the Chief Secretary,
Panaji, Goa,

2. Director, Directorate
of Fisheries, Panaji,
Goa,

3. Goa Fishing Boat Owners
Association, rep. by its
president Michael Pereira,
r/o Vasco, Goa,

4. Goenchea Raponkaracho
Ekvot, Head Office at
Cansaulim, through its
President Mr. Agnelo
Rodrigues, r/o Velsao,
South Goa,

5. National Institute of
Oceanography, Dona Paula,
Goa, and

6. Union of India, through
Secretary, Ministry of
Agriculture, Shastri
Bhavan, New Delhi,
110001. ... Respondents.

Smt. N. Alvares, Amicus Curiae for the petitioner.

Shri A.N.S. Nadkarni, Advocate General with Shri V. P. Thali, Addl. Advocate General with Shri H. R. Bharne, Government Advocate for the respondents no.1 and 2.

Shri A. F. Diniz, advocate for respondent no.3.

Shri E.P. Lobo, advocate for respondent no.4.

Shri S. N. Joshi, advocate for respondent no.5(absent).

Shri J. S. Vaz, Addl. Central Govt. Standing Counsel for the respondent no.6.

CORAM: S. RADHAKRISHNAN &
P. V. HARDAS, JJ.

DATE: 24th September, 2002.

ORAL JUDGMENT (**Per S. Radhakrishnan, J.**)

By this petition, which is being treated as a Public Interest Litigation, certain issues were raised wherein all the citizens of the State of Goa are concerned, inasmuch as they pertain to protecting, preserving and conserving certain vital species of fish, which provide a cheap source of proteins and also the rights of traditional fishing communities, which are dependent upon fishing for their day-to-day livelihood, and to properly regulate fishing. The main grievance of the petitioner is that during the breeding season of certain varieties of fish between June and August, the fishing activity especially mechanized boats and trawlers ought to be stopped, so as to enable the fish to breed during the said breeding season, so as to conserve the same on a sustainable basis.

2. This Court had, by an Order dated 6th July, 2000, directed the Director of National Institute of Oceanography, to file an affidavit with the material available as to the breeding season of fish off Goa Coast and the estuarine areas, and the ban period regarding fishing, so as to help proper breeding of fish and

conserve the same.

3. It appears that earlier, as far as the State of Goa is concerned, the fishing ban used to be from lst June to 24th July, every year, and in the State of Kerala the ban is from 15th June to 29th July. As far as the State of Karnataka is concerned, the ban is from lst June to 31st August. the State of Gujarat on the western coast, does not have any fishing ban. As far as the State of Maharashtra is concerned, it appears that recently a decision has been taken to ban fishing from 10th June, till 7th August each year during the monsoon season.

4. As far as the State of Goa is concerned, the State was to take a final decision as to the period during which the fishing ban should be imposed, so as to conserve the fish and allow the fish to breed, especially during the monsoon period. In fact, on 16th August, 2000, the learned Advocate General appearing for the State of Goa, had informed the Court that the process of consultation was going on, to take a long-term decision with regard to the fishing ban.

5. Now it appears that the final decision has been taken by the Government of Goa, as is apparent from the affidavit of one Santosh C. Verenkar, Director of Fisheries and Ex-Officio Joint Secretary to the Government

of Goa, dated 23rd September, 2002. The said affidavit discloses that the Government of Goa has now finally taken a decision to impose a total fishing ban by all mechanized fishing vessels and trawlers from 10th June to 15th August, or Narali Poornima, whichever is earlier, every year. In the said affidavit also, it is disclosed that the Government is seeking full assistance of the Coast Guards apart from the Government machinery, to effectively enforce the ban on all kinds of mechanized fishing during the aforesaid ban period.

6. The learned counsel for the petitioner also fairly states that the aforesaid ban period appears to be fair, i.e. from 10th June to 15th August or Narali Poornima, whichever is earlier, during the monsoon period.

7. However, the learned counsel for the petitioner, points out that for the fishing ban to be really effective, certain stringent directions will have to be issued, so as to ensure that the ban is not only on paper. Under the aforesaid facts and circumstances, we direct as follows:-

(a) That during the aforesaid ban period, namely from 10th June to 15th August, or Narali Poornima, whichever is earlier, the State

Government of Goa should strictly implement the above fishing ban against all kinds of mechanized vessels, including country crafts and boats/canoes fitted with inboard or outboard motor and other mechanized boats using nets for the purpose of fishing within the territorial waters of the State Goa, i.e. 22 kms. from the sea coast. It is made clear that the traditional fishing by boats, without any mechanized motors, etc., are permissible and this order will not come in the way of the "ramponkars", earning their day-to-day livelihood by traditional fishing;

(b) To ensure effective ban and implementation of the ban, the State Government of Goa shall patrol all the beaches and the State can seek the assistance of the Coast Guards in that behalf. The State Government of Goa should ensure that, especially at landing places in Hollant beach, Chapora beach, Colva beach, Vasco beach, Baina beach, Calangute beach Nerul beach and such other beaches wherein all stocks of fish which are brought in by country crafts or canoes which are mechanized, should be seized;

(c) During the ban period, the licences granted to all such mechanized fishing vessels, including canoes and country crafts, shall stand suspended and in the event such fishing vessels are to be found fishing during the ban period, the licences granted to those fishing vessels shall stand cancelled automatically and shall not be renewed thereafter and the State is also directed to seize such fishing vessels violating the aforesaid fishing ban;

(d) The State of Goa should seal all the seven fishing jetties in Goa during the ban period and the said sealing will be only for the purpose of preventing fishing. The District Magistrates/Mamltadars of North/South Goa respectively, are appointed as Receivers during the respective ban period to ensure that during the ban period no activity connected with either fishing or sale of fish at the jetties is permitted at that time;

(e) During the ban period the sale of diesel/petrol from the petrol pumps which are attached to the jetties shall be stopped completely;

(f) The Insurance Companies are directed to suspend the insurance policies of such licencees of mechanized vessels during the ban period and also not to entertain any claims of compensation due to mishaps arising out of fishing activity during the ban period, involving such mechanized vessels;

(g) The licences of pick-up vans and other vehicles used for the purpose of transporting of fish, including vehicles with freezers for transportation of prawns, etc. should be cancelled during the ban period, if they are are found to be violating the aforesaid ban during the ban period, and such vehicles should be seized by the Government of Goa;

(h) The State Government of Goa is directed to give a wide publicity to the aforesaid ban as well as all the stringent conditions imposed by this Order, year after year, so as to enable the public to know about the ban as well as the stringent conditions. This notice should be published during the first week of June every year.

8. As indicated hereinabove, for a proper

conservation of fish on a sustainable basis, there has to be uniform dates with regard to fishing ban in all the States on the Western Coast. In that behalf we may refer to the affidavit of Dr. M. E. John, Zonal Director, Department of Animal Husbandry and Dairying, Fisheries, Survey of India, Mormugao Zonal Base, Mormugao, Goa dated 28th March, 2002, wherein in paragraphs 4 and 6 it is clearly mentioned that the Central Government is actively considering to impose a uniform ban on fishing throughout the West Coast during the South West monsoon. Hence, in the larger interests of justice, to conserve the fish on a sustainable basis, we do hereby direct the Central Government to impose such a uniform ban on fishing, fixing uniform dates for all the coastal States on the Western Coast during the South West monsoon, before the onset of the next monsoon in May, 2003.

9. With the aforesaid directions, the Writ Petition stands disposed of. Rule is made in the aforesaid terms.

S. RADHAKRISHNAN,J.

P. V. HARDAS, J.

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